

INDIVIDUAL PRACTICES OF JUDGE PAUL G. GARDEPHE
CRIMINAL CASES

Chambers

United States District Court
Southern District of New York
500 Pearl Street, Room 920
New York, New York 10007
(212) 805-0224

Courtroom

500 Pearl Street, Courtroom 14C
Michael Ruocco
Courtroom Deputy Clerk – (212) 805-0102

1. ECF Cases. Counsel are required to register in accordance with the Procedures for Electronic Case filing within **one week** following the initial pretrial conference. Counsel can access the Court's web site: www.nysd.uscourts.gov and click on "CM/ECF Home Page" for complete instructions on how to register.

2. Communications. Except for urgent matters requiring **immediate** attention, all communication with the Court should be in writing and must contain the docket number for the case and the Court's initials (PGG). For an urgent matter, call chambers at 212-805-0224.

3. Substitution of Counsel. When there is a substitution of defense counsel, counsel of record must contact the Courtroom Deputy (212-805-0102) to schedule a conference. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, replacement counsel and the Assistant United States Attorney must also attend the conference.

4. Motions. In making discovery motions, counsel are expected to comply with Southern District Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 Affidavit.

5. Initial Conference/ Arraignment.

A. Upon assignment of a criminal case to Judge Gardephe, the parties immediately shall arrange with the Deputy Clerk for a prompt conference at which the defendant will be present in order to set a discovery and motion schedule. The Assistant United States Attorney shall provide a courtesy copy each of the indictment and criminal complaint, if one exists, to chambers as soon as possible.

B. Defense counsel are required to ask the Court, at the first conference, to hold a Curcio hearing whenever counsel has received, or is receiving, a benefactor payment that subjects counsel to a conflict of interest.

6. Guilty Pleas.

A. Guilty pleas will ordinarily be taken by Judge Gardephe and are not assigned to Magistrate Judges by standing order. No plea will be scheduled until after a defendant's first appearance before the Court.

B. Defense counsel are expected to have reviewed any plea, cooperation or other agreement – if necessary, with the assistance of an interpreter – with the defendant **prior** to the time set for the conference with the Court.

C. Defendants shall be prepared in advance of their pleas by their attorneys to give narrative allocutions that incorporate all the elements of the offense(s) to which they are pleading guilty.

D. Where a defendant is pleading guilty pursuant to a plea agreement or a cooperation agreement, a copy of the agreement which is signed by the defendant and the defendant's attorney must be received by Chambers no fewer than **three** business days before the scheduled plea. Where a defendant is pleading guilty pursuant to a Pimentel letter, a copy of the Pimentel letter must be received by Chambers no fewer than **three** business days before the scheduled plea.

E. Defense counsel shall bring a copy of the Indictment or Information to the proceeding.

6. Exclusion of Time. At scheduled court appearances, parties seeking an exclusion of time under the Speedy Trial Act must be prepared to apprise the Court of facts that will permit the Court to make an independent determination as to whether or not to exclude time, considering both the interest of the public and the interest of the Defendant in a speedy trial, in conformance with 18 U.S.C. § 3161(h)(8), Parisi v. United States, 529 F.3d 134 (2d Cir. 2008), and United States v. Zedner, 547 U.S. 489 (2006). It is not sufficient that the parties agree to exclude time.

7. Bail Modifications. Any written request for a bail modification shall indicate whether the Government and the Pre-Trial Services Officer consent to the request.

8. Sentencing.

A. Deadline for Sentencing Submissions. Unless otherwise ordered, sentencing memoranda or submissions on behalf of defendants are due one week before the scheduled sentencing date. Sentencing memoranda or submissions from the Government are due two business days before such date. Two copies of all such submissions shall be provided directly to chambers, and need not be filed with the Clerk of Court.

B. Docketing and Filing of Sentencing Submissions. Sentencing submissions and letters often contain sensitive information that raise concerns for personal privacy, the security of defendants and/or witnesses, or the confidentiality of ongoing law enforcement operations. Judge Gardephe docket and files all materials received in connection with sentencing under seal promptly after the sentencing proceeding. Any third-party application for access to such materials must be filed with the Court, with a courtesy copy for chambers, and served on

counsel for the defendant concerned and the Government. If an application is made, any party opposing unsealing will have the burden of demonstrating that particular information should be maintained under seal or redacted.

C. Adjournments. Any request for an adjournment of sentence should be made in writing as early as possible, but no later than **three** business days before the date at issue. Such requests should state whether opposing counsel consents.